

FIRST REGULAR SESSION

HOUSE BILL NO. 330

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GUERNSEY.

1097H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to crime scene photographs and video recordings.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 610, RSMo, is amended by adding thereto one new section, to be known as section 610.205, to read as follows:

610.205. 1. After an investigation is inactive, as defined in section 610.100, crime scene or death scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are exposed, shall be considered open records for inspection, but closed records for purposes of copying under the provisions of this chapter. Unless dissemination is prohibited by 18 U.S.C. Section 2252, this section shall not prohibit disclosure of such material to:

(1) State and local law enforcement agencies, prosecuting attorneys, juvenile officers, courts and court personnel, coroners, the state technical assistance team, child fatality review panels, the department of social services, or other state or local officials who need access to the photograph and video recordings in order to perform their duties; and

(2) The deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall:

(a) Be the spouse of the deceased if living;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (b) Be an adult child of the deceased if there is no living spouse of the deceased; or
19 (c) Be a parent of the deceased if there is no living spouse or adult child; and
20 (d) Not have pleaded guilty to or been found guilty of a crime that resulted in the
21 deceased's death.

22 2. Subject to the provisions of subsection 3 of this section, in the case of closed
23 criminal investigations a circuit court judge may order the disclosure of such photographs
24 or video recordings, not otherwise prohibited by 18 U.S.C. Section 2252, upon findings in
25 writing that disclosure is in the public interest and outweighs any privacy interest that may
26 be asserted by the deceased person's next of kin. In making such determination, the court
27 shall consider whether such disclosure is necessary for public evaluation of governmental
28 performance, the seriousness of the intrusion into the family's right to privacy, and
29 whether such disclosure is the least intrusive means available considering the availability
30 of similar information in other public records. In any such action, the court shall review
31 the photographs or video recordings in question in camera with the custodian of the crime
32 scene materials present and may condition any disclosure on such condition as the court
33 may deem necessary to accommodate the interests of the parties.

34 3. Prior to releasing any crime scene material described in subsection 1 of this
35 section, the custodian of such material shall give the deceased person's next of kin at least
36 two weeks' notice. No court shall order a disclosure under subsection 2 of this section
37 which would disregard or shorten the duration of such notice requirement. No court order
38 or notification to the next of kin shall be required for the release or disclosure of
39 information to state and local law enforcement agencies, prosecuting attorneys, juvenile
40 officers, courts and court personnel, coroners, the state technical assistance team, child
41 fatality review panels, the department of social services, or other state or local officials who
42 need access to the photograph and video recordings in order to perform their duties.

43 4. The provisions of this section shall apply to all undisclosed material which is in
44 the custody of a state or local agency on the effective date of this section and to any such
45 material which comes into the custody of a state or local agency after such date.

46 5. The provisions of this section shall not apply to disclosure of crime scene material
47 to counsel representing a defendant. Unless otherwise prohibited by 18 U.S.C. Section
48 2252, counsel may disclose such materials to his or her client and any expert or investigator
49 assisting counsel but shall not otherwise disseminate such materials, except to the extent
50 they may be necessary exhibits in court proceedings. A request under this subsection shall
51 clearly state that such request is being made for the purpose of preparing to file and litigate
52 proceedings enumerated in this subsection.

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